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09/002,584 01/05/98 WUGOFSKI

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EXAMINER
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BROWN, R

ART UNIT	PAPER NUMBER
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2711

DATE MAILED:

10/26/99

LMC1/1026  
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/002,584

Applicant(s)

Wugofski

Examiner

Reuben M. Brown

Group Art Unit

2711



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-43 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-43 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25, 32, 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohga, (U.S. Pat # 5,465,385).

Considering claim 25, the claimed information handling system comprising a tuner tunable to a plurality of channels reads on BS converter 20 of Ohga, (Fig. 3; col. 3, lines 3-10). The claimed scheduler configured to determine a scheduled time & channel from the plurality of channels for receiving information associated with the scheduled channel, wherein the tuner tunes to the scheduled channel at approximately the scheduled time to receive the information associated with the channel is broad enough to read on Ohga, (col. 5, lines 2-11).

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Considering claim 32, the CPU 25 and memory 26 of Ohga provide computer readable medium having computer-executable instructions stored thereon for performing the steps recited in claim 25.

Considering claim 36, the claimed method steps of information handling corresponds with subject matter mentioned above in the rejection of claim 25, and are likewise rejected.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24, 26-27, 29-31, 33-34, 37-38 & 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohga, in view of Banker, (U.S. Pat # 5,497,187).

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Considering claim 1, the claimed computerized system for scheduling caching of data broadcast in a channel, comprising a real-time scheduling process reads on the disclosure of Ohga, which enables the user to choose to receive certain desired broadcasts, (col. 4, lines 58-67). The claimed scheduling process operable for determining a scheduled time & channel for a broadcast and for invoking the real-time scheduling process, wherein the process instructs the tuner circuitry to tune to the scheduled channel for receiving the selected broadcast reads is met by the disclosure of Ohga, that when the user selects the desired broadcast, the corresponding channel information is stored in RAM of memory 26, (col. 4, lines 11-15) and is used to automatically tune the receiver to the appropriate channel, at the appropriate time, in order to receive the desired broadcast. Even though Ohga discloses that the EPG may be transmitted to the subscriber as in-band data, the usage of the in-band data technique is not discussed for the purpose of scheduling automatic updates of the EPG. described scheduling/automatic reception process for receiving in-band data. Nevertheless, Banker discusses the well known advantages of technique of in-band data broadcasting for automatic updates of the EPG, (col. 3, lines 44-50). It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify the scheduling algorithm of Ohga, with the technique of periodic updating of in-band data broadcasts, as taught by Banker, at least for the well known advantage of scheduling automatic updates of EPG data which enables a user to receive the instant updates without having to physically tune the channel to the required channel. Thus the combination of Ohga & Banker, provides the additional claimed feature of invoking a caching process at the appropriate scheduled

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time, which automatically tunes the tuner to the proper channel, receives in-band data and stores the instant received data for subsequent processing, see Ohga, (col. 4, lines 11-15) & Banker, (col. 10, lines 25-36).

Considering claim 2, the claimed feature of retrieving the scheduling time & channel from a source is broad enough to read on Ohga, which retrieves the time & channel data from in-band data & stores it in memory, (col. 4, lines 11-15; col. 4, lines 61-67).

Considering claims 3 & 12, Ohga receives in-band data scheduling data from a broadcast of EPG, (col. 4, lines 11-15).

Considering claims 4, 13, 17, 23 Banker discusses separating in-band data from other data, (col. 18, lines 37-46).

Considering claim 5, Banker discusses transmitting in-band data within the VBI, (col. 3, lines 42-53).

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Considering claim 6, Ohga discloses a terminal apparatus 102, which comprises a BS converter 20. Even though it is not specifically stated that the terminal device is operable to process digital satellite transmission, examiner takes Official Notice that at the time the invention was made, such receivers were notoriously well known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Ohga & Banker, to include digital satellite reception for the well known benefit of increasing the number of transmission mediums from which a user receives TV broadcasts.

Considering claims 7, 14, 20, 27, 34, 38 & 42 both Ohga (col. 4, lines 11-13) and Banker (col. 3, lines 42-53). disclose transmitting an EPG via in-band data.

Considering claims 8, 24, 31 Ohga discloses automatically turning on the TV receiver according to the scheduling process, (col. 5, lines 2-10).

Considering claim 9, the claimed method steps of a scheduling process corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Considering claim 10, Ohga displays a plurality of options for broadcast programming available to a user, and determines the time & channel of the schedule selected by the user, (col. 4, lines 58-67).

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Considering claims 11, 19, 22 Ohga determines that the source of the schedule is in-band data and thereby retrieves the schedule, (col. 4, lines 11-15).

Considering claim 15, the claimed steps corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected. Regarding the additional limitation of storing the recited steps on a computer readable medium having computer-executable instructions stored thereon for performing the steps, Ohga discloses storing instructions in memory 26, which are controlled by CPU 25.

Considering claim 16, the claimed elements of a digital processing system corresponds with subject matter mentioned above in the rejection of claim 15, and are likewise rejected.

Considering claim 18, as discussed above in the rejection of claim 10, Ohga provides a plurality of scheduling options for receiving broadcast programming.

Considering claim 21, the claimed elements of a computerized-system for scheduling the caching of in-band data broadcast, corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.



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Considering claims 26, 33, 37 & 41 even though Ohga discloses that the EPG may be transmitted to the subscriber as in-band data, the usage of the in-band data technique is not discussed for the purpose of scheduling automatic updates of the EPG. described scheduling/automatic reception process for receiving in-band data. Nevertheless, Banker discuss the well known advantages of technique of in-band data broadcasting for automatic updates of the EPG, (col. 3, lines 44-50). It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify the scheduling algorithm of Ohga, with the technique of periodic updating of in-band data broadcasts, as taught by Banker, at least for the well known advantage of scheduling automatic updates of EPG data which enables a user to receive the instant updates without having to physically tune the channel to the required channel. Thus the combination of Ohga & Banker, provides the additional claimed feature of invoking a caching process at the appropriate scheduled time, which automatically tunes the tuner to the proper channel, receives in-band data and stores the instant received data for subsequent processing, see Ohga, (col. 4, lines 11-15) & Banker, (col. 10, lines 25-36).

Considering claim 29, the claimed steps of an information handling system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected.

Considering claim 30, schedule time and channel information is retrieved from the channel which transmits/receives the EPG data, (col. 4, lines 11-14).

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5. Claims 28, 35, 39 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohga & Banker, in view of Hidary, (U.S. Pat 3 5,774,664).

Considering claims 28, 35, 39 & 43 the combination of Ohga & Banker, discuss the transmission & reception of in-band data at least including EPG data, but does not discuss Internet data. However, Hidary discloses the desirable benefits of transmitting Internet related data, i.e URL's within the VBI of a TV signal, (col. 4, lines 40-55). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Ohga & Banker, to include Internet related data, as well as other EPG data transmitted in the in-band of a TV signal for the well known advantage of more efficiently utilizing the existing communications data streams transmitted to a subscriber, as taught by Hidary, (col. 1, lines 52-62).

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*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Lazarus                      Updating an EPG according to a schedule.
- B) Reiter                      Automatic updates of an EPG.
- C) Abraham, Imanaka      Transmission of control codes which turn on and tune a receiver to a channel for receiving requested programming information.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 308-5399 (for informal or draft communications, please label


"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on Monday thru Friday from 830am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



ANDREW I. FAILE  
SUPERVISORY PATENT EXAMINER  
GROUP 2700